



PREVENTIVE LAW SERIES

ARTICLE 139 CLAIMS



Prepared by:
Legal Assistance Department
Region Legal Service Office Southwest
3395 Sturtevant Street Suite 9
San Diego CA 92136-5072
(619) 556-2211

WHAT IS AN ARTICLE 139 CLAIM?

Article 139 of the Uniform Code of Military Justice provides compensation for damage or wrongful taking of privately-owned property caused by wrongful, willful, reckless, riotous or disorderly conduct of members of the naval service not within the scope of employment. Article 139 claims are unique in that they provide for the checkage of the military pay of the members responsible for the property damage.

WHAT TYPE OF DAMAGE AND CLAIMS ARE COVERED?

Article 139 claims are limited in their scope and only cover direct physical damage, not consequential damages, such as loss of use.

WHAT TYPES OF DAMAGE AND CLAIMS ARE NOT COVERED?

Article 139 CANNOT be used to have your debts collected NOR can it be used to mediate business disputes. Lastly, simple negligence by a military member is also NOT recoverable under Article 139. The actions of the military member must reach a level beyond that of simple negligence, such as willful or reckless misconduct.

MEASURE OF DAMAGES

The general rule is that the amount of recovery is limited to only the costs of direct physical damage caused by the servicemember.

WHO CAN APPROVE AN ARTICLE 139 CLAIM?

An officer exercising general court-martial jurisdiction over the command of the servicemember who committed the act can approve an Article 139 Claim. The maximum amount that may be approved by under Article 139 is \$5,000 per offender, per incident. Where there is a valid claim for over \$5,000, the claim shall be forwarded to the Office of the Judge Advocate General. The commanding officer appoints a board of one to three members to investigate the claims. This board possess subpoena power.

STATUTE OF LIMITATIONS

Claims must be submitted within 90 days of the incident upon which the claim is based.

HOW TO FILE A CLAIM

A written claim must be submitted to the Commanding Officer of the alleged offender. If there is more than one complaint from the same incident, each claimant must submit a separate claim. The Command will investigate the claim and make a determination on the merits of the claim and the amount of damages. The alleged offender has the right to see the investigation report and to submit a statement or additional information. The Commanding Officer's action on the investigation is then forwarded to the general court-martial authority for the command, who will direct the Commanding Officer to act accordingly. If a military member is judged liable for damage, they have 5 days to file an appeal.

WARNING: PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT INTENDED TO BE TAKEN AS SPECIFIC LEGAL ADVICE. FOR LEGAL ADVICE IN A PARTICULAR SITUATION, ALWAYS CONSULT WITH AN ATTORNEY.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday through Thursday from 0800 - 1030 and 1300 - 1500, and Friday from 0900 - 1100. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

UCMJ Article 139, 10 U.S.C. § 939 (2012)
JAGINST 5800.7F Ch. 4 (2012)

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